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8 Attorneys for Defendant and Counterclaim Plaintiff,
 Apple Inc.

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN JOSE DIVISION

12 ELAN MICROELECTRONICS CORPORATION,
 13
 14 Plaintiff and Counterclaim Defendant,
 15 v.
 16 APPLE INC.,
 17 Defendant and Counterclaim Plaintiff.
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Case No. C-09-01531 RS

[Proposed] ORDER DENYING ELAN MICROELECTRONICS CORPORATION'S MOTION TO DISMISS APPLE INC.'S THIRD, FOURTH AND FIFTH COUNTERCLAIMS UNDER RULE 12(b)(6) FOR FAILURE TO STATE A CLAIM, OR IN THE ALTERNATIVE, FOR MORE DEFINITE STATEMENT UNDER RULE 12(e)

Date: August 26, 2009
 Time: 9:30 a.m.
 Courtroom: 4, 5th Floor

Hon. Richard Seeborg

Demand for Jury Trial

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The Elan Microelectronics Corporation's Motion To Dismiss Apple Inc.'s Third, Fourth And Fifth Counterclaims For Failure To State A Claim Pursuant To Federal Rule Of Civil Procedure 12(b)(6) For Failure To State A Claim, Or In The Alternative, For More Definite Statement Under To Rule 12(e), came on for hearing before the Court. Based on the supporting and opposition papers and the argument of counsel, and good cause appearing therefore, that motion is hereby DENIED.

IT IS SO ORDERED.

Dated: _____, 2009

UNITED STATES MAGISTRATE JUDGE